SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

X

John Doe No. 1 (a/k/a "100558"),

Plaintiff,

-against-

Rockefeller University and The Rockefeller University Hospital,

Defendants.

X

VERIFIED COMPLAINT

Index No.:

Date Purchased:

Plaintiff John Doe No. 1 (a/k/a "100558"), by and through his attorneys, Joseph Lanni, Esq., and The Jacob D. Fuchsberg Law Firm, L.L.P., as and for his Verified Complaint, complaining of the defendants, respectfully alleges on information and belief as follows:

Introduction

1. Reginald M. Archibald, M.D., was a researcher at defendants Rockefeller University and The Rockefeller University Hospital during the years 1947 – 1982. Archibald was an employee of Rockefeller University; he was also a pedophile. Archibald exploited his position with the defendants and status as a medical doctor to perpetrate a fraudulent research scheme and criminal enterprise during the period 1960 – 1980 that enabled him to gain access to underage research subjects and patients and commit pedophilic criminal acts of sexual abuse on these unsuspecting children. Archibald exploited the anxieties and concerns of

parents about the growth and development of their children to recruit thousands of victims to his fraudulent research project. John Doe No. 1 (a/k/a "100558")[1] was one of Archibald's research subjects and patients[2]; he is a sexual abuse victim.

2. RU/RUH[3] were aware that Archibald's work and conduct at their institution was the subject of a grand jury investigation in 1960. RU/RUH received subpoenas from prosecutors to release Archibald's records on adolescent patients. Despite the knowledge in 1960 that Archibald's research activities had raised the suspicions of prosecutors about criminal activity directed at the children in their care, RU/RUH did not investigate Archibald's research projects, methods and activities.

3. RU/RUH committed systematic and systemic failures to exercise their requisite institutional duty, responsibility and obligation to review, supervise, monitor, audit, investigate, assess and evaluate the "research projects" undertaken by Archibald during the period 1960 – 1980 to ensure that he safeguarded the rights, safety and welfare of his research subjects and patients. Since Archibald received

[1] "John Doe No. #1 (a/k/a '100558')" is an alias and pseudonym for the true identity of the plaintiff in this action; it is used to protect the identity of the plaintiff who is a sexual offense victim pursuant to N.Y. Civil Rights Law § 50-b. The addition of "a/k/a '100558'" to the alias is a designation used to distinguish this plaintiff from any other former research subject and patient who files an action against the defendants for the actions of Reginald M. Archibald, M.D. "John Doe No. #1 (a/k/a '100558')" is used interchangeably with "John Doe No. 1" to identify the plaintiff throughout the text of this pleading and will be so used throughout the proceedings in this case.

[2] The terms "research subjects" and "patients" are used interchangeably throughout this pleading to mean the same thing. Since Archibald was a medical doctor ostensibly engaged in biomedical research on human subjects, those persons in his care and custody at RU/RUH are simultaneously research subjects and patients.

[3] "Rockefeller University" and "The Rockefeller University Hospital" are referred to interchangeably and jointly as "RU/RUH" and separately as "RU" and "RUH" throughout this pleading since "The Rockefeller University Hospital" (RUH) was a division, unit, subunit and/or subsidiary entity to "Rockefeller University" (RU).

federally funded grants to conduct his research projects, RU/RUH were mandated to specifically engage in such oversight of his activities pursuant to federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects that were existent at the time. RU/RUH's institutional failures to exercise proper and adequate oversight permitted Archibald to perpetrate his fraudulent research scheme and commit sexual offenses, and fraudulent and unethical acts against the underage patients in its care and custody. John Doe No. 1 was one of those patients during the period 1972 – 1980. Archibald's predatory behavior against John Doe No. 1 and thousands of others constituted sexual abuse and sexual offenses against minors under the N.Y. Penal Law.

4. Archibald's status as a biomedical researcher, recipient of federal grants to conduct research, and licensure as a medical doctor engaged in research on patients created special duties of care requiring adherence to federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects. RU/RUH's status as a biomedical research institution and recipient of federal grants to conduct research on patients created special duties of care requiring adherence to federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects. Those special duties of care were extraordinarily demanding when it came to research subjects and patients[4], including children,

[4] Archibald's patients at RU/RUH were simultaneously research subjects in the course of his activities as a licensed medical doctor conducting biomedical research and treating patients; therefore, the terms "research

who were incapable of consent. Archibald and RU/RUH repeatedly violated their respective special duties of care owed to thousands of underage research subjects and patients in their care and custody, including John Doe #1, during 1960 – 1980.

5. RU/RUH's violation of the special duties of care owed to John Doe No. 1 caused, contributed to and were substantial factors that resulted in the sexual abuse, crimes, fraud and unethical acts perpetrated by Archibald against him and resulted in his consequent injuries, harm, losses and damages.

Parties

6. John Doe No. 1 (a/k/a "100558") is a resident, domicile and citizen of the State of New York.

7. John Doe No. 1 resides at 55 East 76th Street, New York, NY 10021.

8. John Doe No. 1 resides in New York County.

9. Rockefeller University is a private graduate university and biomedical research institution with principal executive offices, principal administrative offices, principal place of business, research laboratories, clinical offices, hospital, and medical and scientific facilities located at 1230 York Avenue, New York, NY

subjects", "research subject", "patients", and "patient" are used interchangeably throughout this complaint to mean the same thing.

10065.

10. Rockefeller University is a graduate university and biomedical research institution with IRS 501(c)(3) tax-exempt status.

11. Rockefeller University is a purported not-for-profit corporation.

12. The Rockefeller University Hospital is a biomedical research hospital with principal executive offices, principal administrative offices, principal place of business, research laboratories, clinical offices, examination rooms, patient care rooms, operating rooms, and medical facilities located at 1230 York Avenue, New York, NY 10065.

13. The Rockefeller University Hospital is a subsidiary corporate entity, division, department, unit, and/or component of parent entity Rockefeller University.

14. The Rockefeller University Hospital is owned, operated, controlled, directed, funded, administered and managed by Rockefeller University.

15. Rockefeller University is the corporate alter ego of The Rockefeller University Hospital. RUH is also the corporate alter ego of RU. RU and RUH are legally and factually owned, operated, controlled, directed, funded, administered and managed as one and the same institution, corporation and/or entity.

Jurisdiction

16. The jurisdiction of this court is premised upon the residence of the plaintiff in the State of New York, the principal place of business of the defendants in the State of New York, and the location of the transactions, occurrences, conduct, acts and omissions constituting the events at issue in this action in the State of New York.

Venue

17. The venue of this action is premised upon the residence of the plaintiff in the County of New York, the principal place of business of the defendants in the County of New York, and the location of the transactions, occurrences, conduct, acts and omissions constituting the events at issue in this action in the County of New York.

Jury Demand

18. The plaintiff demands trial by jury of all issues of fact in this action pursuant to the applicable statutes and rules.

Facts Common to All Counts

Overview

19. Reginald M. Archibald, M.D., was a researcher at defendants Rockefeller University and Rockefeller University Hospital during the years 1947 – 1982.

20. Archibald was an employee of Rockefeller University; he was also a pedophile.

21. Archibald exploited his position with the defendants and status as a medical doctor to perpetrate a fraudulent research scheme and criminal enterprise during the period 1960 – 1980 at RU/RUH that enabled him to gain access to boys and girls to commit pedophilic sexual offenses and sexually abuse these unsuspecting research subjects and patients.

22. Archibald exploited the anxieties and concerns of parents about the growth and development of their children to recruit thousands of victims to his fraudulent research project.

23. John Doe No. 1 (a/k/a "100558") was one of Archibald's research subjects and patients; he is also one of Archibald's sexual abuse victims.

24. RU/RUH were aware that Archibald's work and conduct at their institution was the subject of a grand jury investigation in 1960. RU/RUH received subpoenas from prosecutors in New York to release Archibald's records on patients. Despite the knowledge that Archibald's research activities had raised the suspicions of prosecutors about criminal activity directed at the children in their care and custody, RU/RUH did not properly and adequately investigate Archibald's research projects, methods and activities.

25. RU/RUH committed systematic and systemic failures to exercise their requisite institutional duty, responsibility and obligation to properly and adequately review, supervise, monitor, audit, investigate and evaluate the research projects, methods and activities undertaken by Archibald during the period 1960 – 1980. The requirements of proper and adequate oversight by RU/RUH were necessary to ensure Archibald's compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

26. Since Archibald received federally funded grants to conduct his research projects, RU/RUH were mandated to specifically engage in such proper and adequate oversight of his activities pursuant to federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects that were existent at the time.

27. RU/RUH failed miserably during this time period to conduct the requisite oversight of Archibald's research activities; it prima facie accepted Archibald's "annual reports" about his work without any proper and adequate independent verification of accuracy. Much more was required from RU/RUH to fulfill its responsibility.

28. RU/RUH's negligent institutional failures to exercise oversight permitted Archibald to defraud patients and parents and commit criminal, fraudulent and

unethical acts against the underage research subjects and patients in its care and custody. John Doe No. 1 was one of the patients in RU/RUH's care and custody.

29. RU/RUH's negligence allowed Archibald to perpetrate a pervasive fraud scheme, engage in a criminal enterprise, and commit pedophilic sexual offenses against underage patients in its care and custody. John Doe No. 1 was one of those patients in RU/RUH's care and custody.

30. Archibald's criminal predatory behavior on John Doe No. 1 and thousands of others constituted sexual abuse and other sexual offenses against minors under the N.Y. Penal Law.

31. Archibald "treated" and conducted "research" on thousands of vulnerable underage research subjects and patients, including John Doe No. 1, at RU/RUH during the years 1960 – 1980.

32. Archibald engaged in a purported research project that was variously described by RU/RUH as "Mechanisms by which hormones exert their influence on the metabolic processes of growth and maturation of cartilage and bone, as seen in endocrine disorders" and "Study of Roentgenograms of Children with Marked Retardation in Skeletal Maturation" during the years 1960 – 1980.

33. Archibald received federal grants for his purported research projects from the

U.S. Department of Health, Education and Welfare (USDHEW).

The Fraud Scheme

34. Archibald's research project at RU/RUH was part of a pervasive fraud scheme; thousands of underage research patients and their parents, including John Doe No. 1, were the victims of this fraud scheme.

35. The research projects were fraudulent for several reasons:

36. The projects were of dubious medical and scientific validity.

37. The projects were primarily designed to attract research subjects and patients by exploiting and manipulating the anxieties and concerns of parents who were worried whether their children were within the highly variable broad range of normal human growth and development.

38. The projects were designed to promote and stimulate the flow of underage research subjects and patients so as to supply a steady stream of ready victims for Archibald to access and prey upon for pedophilic sexual gratification purposes. In essence, the projects were a pretext for producing victims for the purposes of Archibald's pedophilic sexual gratification.

39. For example, there was nothing about the particular subjects of research – studies

of cartilage, bone and x-rays – that required Archibald to direct patients to strip naked, examine and measure their genitalia, describe the appearance of secondary sex characteristics, order them to masturbate to ejaculation or be manually stimulated to ejaculation, obtain semen specimens, and/or photograph and film them naked, masturbating or in humiliating sexualized positions.

40. For example, Archibald's subjection of children, including John Doe No. 1, not suffering from an endocrine disorder to the excess radiation of x-rays simply to predict adult height served no valid scientific or medical purpose. The prediction of adult height in and of itself served no valid scientific or medical purpose. Indeed, its underlying premise served eugenic goals that had long since been scientifically discredited.

41. For example, the vast majority of the thousands of children who were Archibald's research subjects and patients, including John Doe No. 1, were clearly well within the highly variable broad range or statistical curve of normal human growth, development, and secondary sex characteristics, and exhibited no signs of an endocrine disorder.

42. Archibald lacked the professional medical credentials to undertake biomedical research in endocrinology or pediatric endocrinology; he had not completed any accredited graduate medical education residency program in the fields of endocrinology or pediatrics. While Archibald had graduated from medical school

in Canada and was licensed to practice medicine in New York, he had only undergone limited training in the field of nephrology, i.e., kidney diseases and conditions.

43. In the course of Archibald's research projects and "treatment" of underage patients, including the encounters with John Doe No. 1, he also engaged in the following fraudulent, unethical and criminal methods and activities:

44. Archibald made fraudulent diagnoses.

45. Archibald performed fraudulent examinations with ulterior motives that served no valid medical or scientific purpose.

46. Archibald fraudulently obtained specimens that served no valid medical or scientific purpose.

47. Archibald fraudulently advised parents about the medical necessity to schedule return patient visits for their children.

48. Archibald fraudulently advised parents about the medical utility of patient visits for the siblings of research subjects and patients.

49. Archibald arranged to forge parents' signatures on consent forms for "treatment

and diagnostic procedures".

50. Archibald arranged to forge parents' signatures on consent forms for medical photographs.

51. Archibald arranged for the preparation of fraudulent consent forms providing "carte blanche" consent for examination that prima facie violated federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

52. Archibald arranged the preparation of fraudulent consent forms providing "carte blanche" consent for medical photographs that prima facie violated federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

53. Archibald's consent forms authorized the administering of unspecified "medications" that gave him the pretext to medicate research subjects and patients so that they would become more cooperative, less resistant and/or less likely to fully recall the entire encounter. The unspecified term "medications" would necessarily be inclusive of hypnotics, sedatives, amnestics, and soporifics such as benzodiazepines.

54. Archibald made fraudulent recommendations to parents related to the medical

care and health status of their children that lacked medical purpose or necessity.

55. Archibald fraudulently concealed that the actual purpose of his "research project" was to gain access to underage research subjects and patients so as to victimize them for his own pedophilic sexual gratification purposes.

The Sexual Abuse – Archibald's Customary, Habitual and Routine Pattern or Modus Operandi During Patient Encounters

56. Archibald systematically and systemically sexually abused his underage research subjects and patients, including John Doe No. 1, as a customary, habitual and routine part of his "treatment", "diagnostic procedures", "examinations" and "research".

57. The majority of Archibald's research subjects and patients were male children.

58. Archibald customarily and habitually engaged in a series of criminal pedophilic activities and perpetrated sexual offenses that were cloaked in the guise of medical examinations on underage research subjects and patients.

59. Archibald's "examinations" mostly served no valid medical purpose, necessity, or legitimacy; they were performed to provide opportunity and access to Archibald to perpetrate pedophilic sexual offenses for his own deviant sexual gratification.

60. Specifically, Archibald's encounters with research subjects and patients

customarily and habitually consisted of the following routine:

61. Archibald separated and isolated his underage research subjects and patients from their parents.

62. Archibald brought underage patients into his office or examination rooms at RUH.

63. Archibald locked the door to the room.

64. Archibald was nearly always alone with underage research subjects and patients in his office or examination room without any other health care professional, parent or chaperone present.

65. Archibald directed the underage research subjects and patients to completely disrobe.

66. Archibald did not provide the underage research subjects and patients with a hospital gown for customary modesty purposes so as to ensure that they remained naked throughout the encounter.

67. Archibald "measured" most of his underage male patients' penises and testicles as a purported part of his "treatment" and "research" even though his research

projects focused on cartilage, bone and x-rays.

68. Archibald measured underage male patients' penises when flaccid and sometimes erect.

69. Archibald photographed and/or filmed most of his underage research subjects and patients while they were naked; the photography and/or filming included selective close-ups of genitalia.

70. Archibald often directed his underage male research subjects and patients to pose for photographs with flaccid and/or erect penises.

71. Archibald extensively fondled his underage male patients' penises and scrotums during purported examinations.

72. Archibald directed his underage male patients to masturbate to ejaculation; he assisted many patients to ejaculate with manual stimulation if they were unable to do so on their own.

73. Archibald's examinations, genital measurements, masturbation directives and semen specimen extractions pertaining to these underage patients were non-consensual; they occurred without the valid consent of the patients or their parents.

74. Archibald photographed and/or filmed underage male patients while they were naked, masturbating or ejaculating, or arranged to have these patients photographed and/or filmed by other RU/RUH employees.

75. Archibald compelled underage patients to pose naked for photographs in humiliating and vulnerable positions.

76. Archibald's photographing and/or filming of underage male and female patients naked or male patients masturbating or ejaculating sometimes occurred clandestinely without the knowledge of the patients and always without the knowledge of their parents.

77. Archibald's photographing and/or filming of underage patients naked, masturbating or ejaculating occurred without the valid consent of the patients or their parents.

78. Archibald sometimes clandestinely observed underage male and female patients while they were naked or underage male patients while they were masturbating.

79. Archibald's photographs and/or films of his underage patients were made with RU/RUH equipment and sometimes with the assistance of RU/RUH staff.

80. Archibald conspired with other RU/RUH employees to create a compilation of photographs and/or films of naked, masturbating or ejaculating underage patients.

The Forgery of Consent Forms: Non-Consensual "Treatment", "Examinations" & "Photographs" – Prima Facie Violations of Medical & Scientific Ethics

81. Archibald conspired with other RU/RUH employees, identified as "Co-Conspirator No. 1", "Co-Conspirator No. 2"[5] and other persons, to systematically forge consent forms including consents for "treatment" and "photographs".

82. Archibald conspired with other RU/RUH employees to systematically prepare "carte blanche" consent forms, including consents for examinations and photographs, that violated federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects that were existent at the time.

83. The "carte blanche" consent forms were meant to create the pretext of medical legitimacy to insulate Archibald and co-conspirators from criminal charges for conduct that would otherwise be viewed as serious sexual offenses should any parent or patient complain about the unethical behavior, realize the criminal purpose, or expose the fraud.

[5] "Co-Conspirator No. 1" and "Co-Conspirator No. 2" are or were female RU/RUH employees; evidence demonstrates that these two employees were the persons who forged consent forms. "Co-Conspirator No. 1" forged the signature of John Doe No. 1's father on both consent forms in the plaintiff's medical records. "Co-Conspirator No. 2" forged the signatures of the parents of other patients. The identity of "Co-Conspirator No. 1" and "Co-Conspirator No. 2" are not disclosed in this pleading due to the possibility that their forgeries resulted from the exertion of duress or extortion by Archibald. "Co-Conspirator No. 1" is believed to be deceased.

RU/RUH's Misfeasance, Malfeasance & Institutional Failures

84. RU/RUH systematically developed "carte blanche" consent forms, including consents for "treatment" and "photographs", that violated federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects to promote and stimulate the steady flow of research subjects and patients.

85. RU/RUH was aware of many aspects of Archibald's customary and habitual activities during encounters with underage research subjects and patients.

86. RU/RUH was aware that Archibald was using "carte blanche" consent forms, including consents for "treatment" and "photographs", for underage research subjects and patients in his federally funded "research" projects.

87. RU/RUH was aware that Archibald was using its facilities and equipment to photograph and/or film underage male and female patients while they were naked or underage male patients while they were masturbating and/or ejaculating.

88. RU/RUH was aware that Archibald was sometimes using RU/RUH employees to perform the photography and/or filming of underage male and female patients while they were naked or underage male patients while they were masturbating and/or ejaculating.

89. RU/RUH was aware that Archibald had compiled a collection of thousands of photographs and/or films of underage male and female patients while they were naked or underage male patients while they were masturbating and/or ejaculating.

90. RU/RUH maintained in its possession Archibald's collection of thousands of such photographs and/or films of underage male and female patients.

91. RU/RUH never investigated or inquired into the medical or scientific purposes of Archibald's collection of photographs and/or films.

92. RU/RUH was aware and/or should have been aware that such a collection of photographs and/or films created the risk of intrusions into the medical privacy rights of these underage patients for untoward purposes.

93. RU/RUH failed to properly and adequately secure and protect Archibald's collection of photographs and/or films from unauthorized removal, theft, pilferage and/or potential distribution, dissemination and/or publication for untoward purposes.

94. RU/RUH fraudulently concealed that Archibald's customary, habitual and routine pattern of behaviors and activities during encounters with underage research subjects and patients were without valid medical or scientific purpose.

95. RU/RUH did not properly and adequately review, supervise, monitor, investigate, audit, evaluate, assess and inquire into Archibald's research projects, methods and activities as required by federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects during the period 1960 – 1980.

96. RU/RUH did not properly and adequately conduct the requisite oversight to ensure that Archibald's research projects, methods and activities were in compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects during the period 1960 – 1980.

Plaintiff John Doe No. 1's Experiences as a Biomedical Research Subject and Patient in RU/RUH's Care and Custody

97. John Doe No. 1 encountered Archibald at RU/RUH on two separate occasions in the 1970's. The first time that John Doe No. 1 encountered Archibald at RU/RUH was when he was 14 years old in 1972. The second time that John Doe No. 1 encountered Archibald at RU/RUH was when he was 16 years old in 1975.[6]

98. Archibald avidly pursued John Doe No. 1 through his mother during the period 1972 – 1980 with letters and phone calls requesting that she arrange to bring her son for return "follow up" visits. The last time Archibald contacted John Doe No.

[6] The specific dates of the encounters are stated in John Doe No. 1's RU/RUH medical records.

1 through his mother to inquire into his whereabouts and pursue a return appointment was in 1980 when the latter was then 22 years old.

99. John Doe No. 1's encounters with Archibald at RU/RUH in 1972 and 1975 followed the foregoing described pattern of Archibald's customary, habitual and routine activities during encounters with adolescent male research subjects and patients.

100. John Doe No. 1's mother had been referred to Archibald to evaluate her son by the parents of other patients. John Doe No. 1's mother consulted Archibald due to concerns about the purported "short stature" and "delayed maturation" of her child.

101. John Doe No. 1's mother accompanied him during both appointments to see Archibald in his offices at RU/RUH.

102. Archibald and Co-Conspirator No. 1 conspired to forge John Doe No. 1's father's signature on consent forms for "treatment and diagnostic procedure" and "photographs" of the patient though the father was never present for either of the patient's encounters in 1972 and 1975. The consent forms are dated for the initial encounter in 1972.

103. The forged consent form for "photographs" gave permission for "photographs of

my child [John Doe No. 1] to be taken" for "medical and professional purposes". The consent form does not specifically describe the nature of the photographs, the portions of the patient's body to be photographed or the purpose of the photographs. The consent forms do not specifically define what is meant by "professional" purposes. The consent forms do not specifically indicate that John Doe No. 1 would be photographed naked or engage in any sexual activity.

104. The forged consent form for "treatment and diagnostic procedure" gave permission for "any routine treatment and diagnostic procedure, which may be deemed necessary, may be performed upon my son, [John Doe No. 1]". The consent form ominously states "this authorization includes physical examination, routine laboratory tests, routine X-rays, and *administration of generally accepted medications*" (*emphasis added*). The reference to administering medications is and was ominous to those with sophisticated knowledge of medicine, science, pharmacology, forensics and criminal justice but it would seem innocuous to the average medical consumer or parent of a pediatric patient.

105. The forged consent form for "treatment and diagnostic procedure" does not describe the nature of the specific "treatment", "examination", "diagnostic procedures", or "laboratory tests" to be performed on John Doe No. 1 or specify the nature or purpose of the "generally accepted medications to be administered" to him. The consent form does not define these terms in any way; it does not even remotely specify, describe or indicate what Archibald would or could do with

John Doe No. 1 when alone with him or any other underage research subject and patient. It does not describe what medications could be given to John Doe No. 1, the possible effect of those medications, or the reasons for such medications.

106. The forged consent forms for "treatment and diagnostic procedure" and "photographs" pertaining to John Doe No. 1 are prima facie invalid. The "treatment", "examination", "diagnostic procedures", "laboratory tests", "medications" administered, and/or "photographs" of John Doe No. 1 in 1972 and 1975 at RU/RUH were non-consensual. Archibald's actions during these encounters were in violation of federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

107. During the 1972 encounter, the following occurred:

108. John Doe No. 1 was separated from his mother and brought into an examination room in Archibald's offices. The examination room door was locked. Archibald directed John Doe No. 1 to entirely disrobe.

109. Archibald's brazen modus operandi and the "treatment" consent form language are evidence that Archibald clandestinely administered hynotic, amnestic, soporific and/or sedative medication to John Doe No. 1 (e.g., benzodiazepines) to make him more compliant, cooperative and lessen resistance to violations of

bodily integrity. Archibald may have done this with many other research subjects and patients.

110. Archibald extensively examined and measured John Doe No. 1's genitalia – penis length and circumference and testicular circumference were measured. The examination was non-consensual. Archibald's actions during this examination were excessive and violated the law.

111. Archibald gave John Doe No. 1 magazines containing pornographic photographs and a plastic cup.

112. Archibald directed John Doe No. 1 to look at the pornographic magazine photos and masturbate until he ejaculated into the plastic cup. John Doe No. 1 reluctantly complied with the request but felt humiliated, confused, troubled and violated by it. He masturbated to ejaculation into the cup and gave it to Archibald. John Doe No. 1's RU/RUH medical records are totally devoid of any reference to masturbation, the semen specimen or laboratory testing of the same.

113. Archibald photographed or filmed John Doe No. 1 while he was naked, masturbating, ejaculating and/or in compromising positions in the adjacent examination room.

114. Archibald also obtained a urine sample from John Doe No. 1.

115. Archibald also took x-rays of John Doe No. 1.

116. Archibald measured the height and weight of John Doe No. 1.

117. John Doe No. 1's height and weight in 1972 at 14 years old were well within the normal range for males his age on the CDC's 21st century growth and development curve for pediatric patients ages 2 – 20 that was published in 2002. (*See, Exhibit 1.*)

118. Archibald described the secondary sex characteristics exhibited by John Doe No. 1 in the records.

119. There is nothing about John Doe No. 1's secondary sex characteristics, genitalia measurements, height or weight in 1972 that was outside the expected and ordinary variable range in adolescent human males. In other words, everything about John Doe No. 1's growth and development was normal.

120. Despite the obvious normality of every aspect of John Doe No. 1's sexual maturity, height, weight, growth and development in 1972, Archibald falsely diagnosed him to be suffering from "dwarfism" and "infantilism".

121. Subsequent to the initial encounter in 1972, Archibald avidly pursued John Doe

No. 1 for return patient visits. Contacts were by telephone and letter with his mother. Archibald or the staff at his direction would schedule appointments for John Doe No. 1 without the request for the same by his parents; John Doe No. 1's mother would be informed of the appointments after they were already scheduled.

122. Follow up appointments were scheduled for 1973 and 1974; John Doe No. 1's mother cancelled these appointments.

123. When Archibald continued to pursue John Doe No. 1 for a return patient visit in 1975, he offered his mother appointments during four consecutive dates. John Doe No. 1's mother finally agreed to an appointment and returned with her son at that time.

124. At the time of the 1975 appointment, John Doe No. 1 was 16 years old.

125. During the 1975 encounter with Archibald, John Doe No. 1 was subjected to the same general pattern of unethical methods, activities, acts, conduct and behavior that had occurred in 1972. Archibald's actions during the 1975 encounter were substantially similar to his conduct in 1972.

126. Archibald's records confirm the following: He extensively examined and measured John Doe No. 1's genitalia – penis length and circumference and testicular circumference. The examination was non-consensual. Archibald's

actions during this examination were excessive and violated the law. He also diagnosed John Doe No. 1 with a left hydrocele (i.e., a collection of serous fluid around the sheath covering the testicle). Archibald measured the height and weight of John Doe No. 1. The patient had grown 7 inches in height in 2.5 years after the 1972 encounter.

127. John Doe No. 1's height and weight in 1975 at 16 years old was well within the normal range for males his age on the CDC's 21st century growth and development curve for pediatric patients ages 2 – 20 that was published in 2002. (*See, Exhibit 2.*)

128. There was nothing about John Doe No. 1's secondary sex characteristics, genitalia measurements, height or weight in 1975 that were outside the expected and ordinary variable range in adolescent human males. In other words, everything about John Doe No. 1's growth and development was normal.

129. Despite the obvious normality of every aspect of John Doe No. 1's sexual maturity, height, weight, growth and development in 1975, Archibald continued to pursue him for return patient visits in the same manner as before.

130. Archibald avidly pursued John Doe No. 1 for return patient visits until 1980. In 1980, John Doe No. 1 was 22 years old, a college graduate and had not seen Archibald for 5 years. A letter by Archibald that is addressed to John Doe No. 1's

mother, dated August 18, 1980, describes prior contacts to schedule appointments for John Doe No. 1 in 1976, 1977 and 1978 and offers a range of dates for a return visit before Archibald permanently closed his "clinic" in October of that year.

131. Archibald used the excuse of "monitoring" the previously diagnosed hydrocele as an additional rationale or justification for John Doe No. 1 to return for a patient visit. This excuse was false since hydroceles are generally innocuous and are not treated unless the patient suffers substantial pain, discomfort or interference with function. Urologists evaluate, monitor and treat hydroceles – not endocrinologists. Archibald was not an urologist nor was he qualified to monitor or treat hydroceles. Archibald used the hydrocele as a pretext to attempt another episode of contact with John Doe No. 1. In essence, the hydrocele was merely another manifestation of Archibald's unethical pursuit of John Doe No. 1 for additional contact.

132. The foregoing description of John Doe No. 1's encounters with Archibald at RU/RUH in 1972 and 1975 is not exclusive to the entirety of the events transpiring during those patient visits. The scope of the events at issue encompasses more than the foregoing allegations.

133. Archibald's avid pursuit to see John Doe No. 1 again by contacting his mother is nothing less than odd, bizarre and grossly misplaced if it were not motivated by untoward purposes. John Doe No. 1's sexual maturity, height, weight, growth and

development had been well within normal range since Archibald initially saw him in 1972. In 1980, John Doe No. 1 clearly did not suffer from any endocrine disorder[7], and he was an adult capable of making his own medical decisions.

134. Archibald's desire to "monitor" the incidental finding of John Doe No. 1's "hydrocele" in his capacity as a research endocrinologist at RU/RUH rather than refer the patient to an urologist is similarly odd and bizarre and exposes the fraudulent nature of his encounters with this patient.

135. Indeed virtually all non-consensual elements of Archibald's "treatment", "examination", "diagnostic procedures", "laboratory tests", "medications" administered, and/or "photographs" of John Doe No. 1 in 1972 and 1975 were similarly odd, bizarre and patently fraudulent since his research projects were focused on the study of cartilage, bone and x-ray findings in children with endocrine disorders. They were also prima facie tortious, non-consensual and violated medical and scientific ethics. They also violated the law.

136. Since 1972, John Doe No. 1 has felt violated, humiliated, distressed, anguished, confused, troubled, disturbed and perturbed by his encounters with Archibald at RU/RUH. His experiences with Archibald at RU/RUH have caused him injury, harm, losses and damages.

[7] There was no clinical evidence suggesting an endocrine disorder when John Doe No. 1 presented to Archibald in either 1972 or 1975.

137. John Doe No. 1 is distressed, anguished and concerned to learn that any photographs or films taken of him at the direction of Archibald during the encounters in 1972 and 1975 at RU/RUH are missing and may have been disseminated, distributed and/or published for untoward purposes.

138. John Doe No. 1's retrospective realization that the events transpiring during the encounters with Archibald at RU/RUH in 1972 and 1975 were non-consensual, fraudulent, lacking in medical or scientific validity, violated the law and constituted parts of serial pedophilic sexual offenses committed by a single offender is also a source of distress.

139. The revelation to John Doe No. 1 that Archibald preyed upon thousands of other children at RU/RUH worsens and exacerbates his feelings about these experiences.

Non-Parties John Doe No. 2's and John Doe No. 3's Experiences as Biomedical Research Subjects and Patients in the Defendants' Care and Custody

140. John Doe No. 2 and John Doe No. 3 were both research subjects and patients of Archibald at RU/RUH in the 1970's. Their experiences with Archibald at RU/RUH are relevant to this action.

John Doe No. 2

141. John Doe No. 1 had two younger male siblings.

142. Archibald became aware of the existence of the two younger male siblings during the encounters with John Doe No. 1 in 1972.

143. Archibald advised and recommended to John Doe No. 1's mother that she bring the younger siblings to see him if she was concerned about their short stature or delayed maturity.

144. Eventually, one of the younger siblings, identified only as John Doe No. 2, was brought by the mother to see Archibald at RU/RUH in response to his advice and recommendations.

145. John Doe No. 2 encountered Archibald at RU/RUH in 1976.

146. At the time of the 1976 appointment, John Doe No. 2 was 11 years old.

147. There were concerns about John Doe No. 2's "inadequate stature" at 11 years old.

148. During the 1976 encounter with Archibald, John Doe No. 2 was subjected to the same general pattern of Archibald's unethical methods, activities, acts, conduct and behavior as had occurred with his older brother in 1972 and 1975.

149. The consent forms for "treatment and diagnostic procedures" and "photographs"

in John Doe No. 2's RU/RUH medical records from 1976 are identical to the consent forms used for his older sibling John Doe No. 1. The consent forms are entirely "carte blanche", uninformative and unethical.

150. Archibald's records confirm the following: He extensively examined and measured John Doe No. 2's genitalia – penis length and circumference and testicular circumference. The examination was non-consensual, excessive and violated the law. Archibald measured the height and weight of John Doe No. 2. The child's height was 53.375 inches (4 feet, 5 inches). Archibald gave the diagnosis "shorter than average stature" to John Doe No. 2. He estimated John Doe No. 2's adult height to be 62 inches (i.e., 5 feet, 2 inches).

151. John Doe No. 2's height and weight in 1976 at 11 years old was well within the normal range for males his age on the CDC's 21st century growth and development curve for pediatric patients ages 2 – 20 that was published in 2002. (*See, Exhibit 3.*)

152. Subsequent to the encounter with Archibald in 1976, John Doe No. 2 complained to his mother and John Doe No. 1 that Archibald was "a weird guy" who "played with my b***s".

153. Archibald recommended and advised return patient visits for John Doe No. 2.

154. There was nothing about John Doe No. 2's secondary sex characteristics, genitalia measurements, height or weight in 1976 that was outside the ordinary variable range of normal in pediatric human males.

155. Archibald continued to pursue return patient visits for John Doe No. 2 through contacts with his mother. At the same time Archibald was pursuing return patient visits for John Doe No. 2, he was avidly pursuing the same for John Doe No. 1.

156. Archibald or others at his direction scheduled return patient visits for John Doe No. 2 in 1977 and 1978; the child's mother cancelled the appointments. Return visits for John Doe No. 2 never materialized.

John Doe No. 3

157. John Doe No. 3 is now an investigative journalist for a news media organization.

158. John Doe No. 3's mother brought him to see Archibald due to concerns about his short stature and delayed maturity.

159. John Doe No. 3 encountered Archibald in his offices at RU/RUH in 1972. He was 13 years old at the time.

160. John Doe No. 3 was separated from his mother and brought into an examination room in Archibald's offices. The examination room door was locked. Archibald

directed John Doe No. 3 to entirely disrobe.

161. Archibald extensively examined and measured John Doe No. 3's genitalia – penis length and circumference and testicular circumference – to the extent that the examination consisted of fondling his genitalia.

162. Archibald gave John Doe No. 3 magazines containing pornographic photographs and a plastic cup.

163. Archibald directed John Doe No. 3 to sit in an adjacent examination room with the magazine, look at the pornographic magazine photos, and masturbate until he ejaculated into the plastic cup. John Doe No. 3 reluctantly complied with the request but felt humiliated, confused, troubled and violated by it. He masturbated to ejaculation into the cup and gave it to Archibald.

164. John Doe No. 3 states that someone on the other side of the wall was clandestinely observing him while masturbating and that photographs or films apparently were taken at that time.

The Ethical Standards, Guidelines & Principles Governing & Regulating Biomedical Research on Human Subjects During 1960 – 1980

The Nuremberg Code

165. The Nuremberg Code is the most important document in the history of the ethics

of biomedical research on human subjects. The code was formulated in August 1947, in Nuremberg, Germany, during war crimes trials of Nazi doctors accused of conducting murderous and torturous human experiments in the concentration camps (i.e., "The Doctors' Trial"). It serves as the blueprint for today's principles that ensure the rights of human subjects in biomedical research.

166. In pertinent part, The Nuremberg Code[8] states the following:

> The Nuremberg Code
> "1. The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.
> .....
> 4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.
> .....
> 7. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

167. The "Doctor's Trial" before the Nuremberg War Crimes Tribunal defined the

[8] See, The Nuremberg Code; Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10, Nuremberg, Germany, October 1946–April 1949; Washington, D.C.: U.S. G.P.O, 1949–1953.

ideas that shaped the standards of biomedical research ethics.

The 1964 Helsinki Declaration

168. The Declaration of Helsinki in 1964[9] was the next important set of standards, guidelines and principles governing and regulating biomedical research on human subjects. It states, in pertinent part, as follows:

> "I. BASIC PRINCIPLES
> 2. Clinical research should be conducted only by scientifically qualified persons and under the supervision of a qualified medical man.
> 3. Clinical research cannot legitimately be carried out unless the importance of the objective is in proportion to the inherent risk to the subject.
> 4. Every clinical research project should be preceded by careful assessment of inherent risks in comparison to foreseeable benefits to the subject or to others.
> .....
> II. CLINICAL RESEARCH COMBINED WITH PROFESSIONAL CARE
> ..... [T]he doctor should obtain the patient's freely given consent after the patient has been given a full explanation. In case of legal incapacity, consent should also be procured from the legal guardian; in case of physical incapacity the permission of the legal guardian replaces that of the patient.
> .....
> III. NON-THERAPEUTIC CLINICAL RESEARCH
> In the purely scientific application of clinical research carried out on a human being, it is the duty of the doctor to remain the protector of the life and health of that person on whom clinical research is being carried out.
> The nature, the purpose and the risk of clinical research must be explained to the subject by the doctor.
> 3a. Clinical research on a human being cannot be undertaken without his free consent after he has been informed; if he is legally incompetent, the consent of the legal guardian should be procured.
> .....
> 4a. The investigator must respect the right of each individual to safeguard his personal integrity, especially if the subject is in a dependent relationship to the investigator.

[9] See, Declaration of Helsinki, Recommendations guiding doctors in clinical research, World Medical Assembly, 1964.

....."

The 1966 Ethical Guidelines for Clinical Investigation of the American Medical Association

169. The American Medical Association's Ethical Guidelines for Clinical Investigation published in 1966[10] supplemented the 1947 Nuremberg Code and 1964 Declaration of Helsinki in defining the standards, guidelines and principles governing and regulating biomedical research on human subjects. It states, in pertinent part, as follows:

> "2. In conducting clinical investigation, the investigator should demonstrate the same concern and caution for the welfare, safety and comfort of the person involved as is required of a physician who is furnishing medical care to a patient independent of any clinical investigation.
> .....
> .....
> B. Voluntary consent must be obtained from the patient, or from his legally authorized representative if the patient lacks the capacity to consent, following :
> .....
> (b) a reasonable explanation of the nature of the drug or procedure to be used, risks to be expected, and possible therapeutic benefits,
> (c) an offer to answer any inquiries concerning the drug or procedure, and
> In clinical investigation primarily for the accumulation of scientific knowledge – Adequate safeguards must be provided - for the welfare, safety and comfort of the subject.
> B. Consent, in writing, should be obtained from the subject, or from his legally authorized representative if the subject

[10] See, Ethical Guidelines for Clinical Investigation, American Medical Association, JAMA, 1966.

lacks the capacity to consent, following a disclosure of the fact that an investigational drug or procedure is to be used, (b) a reasonable explanation of the nature of the procedure to be used and risks to be expected, and (c) an offer to answer any inquiries concerning the drug or procedure.
C. Minors or mentally incompetent persons may be used as subjects only if:
The nature of the investigation is such that mentally competent adults would not be suitable subjects.
Consent, in writing, is given by a legally authorized representative of the subject under circumstances in which an informed and prudent adult would reasonably be expected to volunteer himself or his child as a subject."

The 1971 U.S. Government Policy on the Protection of Human Subjects in Research

170. In 1971, the United States government, through the National Institutes of Health, published and distributed to all recipients of federal grants for biomedical research the Institutional Guide to USDHEW[11] Policy on Protection of Human Subjects[12]. The Guide constituted official federal policy governing and regulating standards, guidelines and principles of ethical biomedical research on human subjects in the United States. The Guide refined and supplemented the 1947 Nuremberg Code, 1964 Declaration of Helsinki, and 1966 AMA Ethical Guidelines for Clinical Investigation. It predated the National Research Act in

[11] USDHEW is the U.S. Department of Health, Education & Welfare now known as the U.S. Department of Health & Human Services.
[12] See, Institutional Guide to DHEW Policy on Protection of Human Subjects, U.S. Department of Education & Welfare, National Institutes of Health, Division of Research Grants, Office for Protection of Research Risks, December 1, 1971.

1974 and the regulations promulgated under that statute. It states, in pertinent part, as follows:

> "Safeguarding the rights and welfare of human subjects involved in activities supported by grants or contracts from the Department of Health, Education, and Welfare is the responsibility of the institution which receives or is accountable to the DHEW for the funds awarded for the support of the activity.
>
> In order to provide for the adequate discharge of this institutional responsibility, it is the policy of the Department that no grant or contract for an activity involving human subjects shall be made unless the application for such support has been reviewed and approved by an appropriate institutional committee.
>
> This review shall determine that the rights and welfare of the subjects involved are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained, and that informed consent is to be obtained by methods that are adequate and appropriate.
>
> In addition the committee must establish a basis for continuing review of the activity in keeping with these determinations.
>
> The institution must submit to the DHEW, for its review, approval, and official acceptance, an assurance of its compliance with this policy. The institution must also provide with each proposal involving human subjects a certification that it has been or will be reviewed in accordance with the institution's assurance.
>
> No grant or contract involving human subjects at risk will be made to an individual unless he is affiliated with or sponsored by an institution which can and does assume responsibility for the protection of the subjects involved."

171. The NIH's Institutional Guide set forth standards, guidelines and principles for stringent institutional review of biomedical research projects, continuing review of such projects and the elements, scope and necessity of a valid informed consent from research subjects and patients:

> c. The informed consent of subjects will be obtained by methods that are adequate and appropriate.

> .....
> Informed consent is the agreement obtained from a subject, or from his authorized representative, to the subject's participation in an activity.
> The basic elements of informed consent are:
> A fair explanation of the procedures to be followed, including an identification of those which are experimental;
> A description of the attendant discomforts and risks;
> A description of the benefits to be expected;
> A disclosure of appropriate alternative procedures that would be advantageous for the subject;
> An offer to answer any inquiries concerning the procedures;
> An instruction that the subject is free to withdraw his consent and to discontinue participation in the project or activity at any time.
> In addition, the agreement, written or oral, entered into by the subject, should include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, or to release the institution or its agents from liability for negligence.
> Informed consent must be documented (see Documentation, p. 35).
> Consent should be obtained, whenever practicable, from the subjects themselves. When the subject group will include individuals who are not legally or physically capable of giving informed consent, because of age, mental incapacity, or inability to communicate, the review committee should consider the validity of consent by next of kin, legal guardians, or by other qualified third parties representative of the subjects' interests.
> .....
> The review committee will also determine if the information to be given to the subject, or to qualified third parties, in writing or orally, is a fair explanation of the project or activity, of its possible benefits, and of its attendant hazards."

The 1974 National Research Act & 45 CFR §46: Protection of Human Subjects

172. In 1974, Congress enacted the National Research Act (see, Public Law 93-348; 42 U.S.C. 289 l-1, et seq.) and extensive regulations were promulgated under that statute13 (see, 45 CFR Part 46, et seq.). The Act embodied in statute and regulatory form the official federal policy relating to the standards, guidelines and

[13] See, National Research Act, Public Law 93-348, 42 U.S.C. 289 l-1, et seq., and 45 CFR § 46, et seq.

principles of ethical biomedical research on human subjects in the United States.

It states, in pertinent part, as follows:

> "46.116 General requirements for informed consent.
> Except as provided elsewhere in this policy, no investigator may involve a human being as a subject in research covered by this policy unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence.
> The information that is given to the subject or the representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution or its agents from liability for negligence.
> Basic elements of informed consent.
> Except as provided in paragraph (c) or (d) of this section, in seeking informed consent the following information shall be provided to each subject:
> A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;
> (2) A description of any reasonably

foreseeable risks or discomforts to the subject;
(3) A description of any benefits to the subject or to others which may reasonably be expected from the research;
(4) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;
.....
46.117 Documentation of informed consent.
Except as provided in paragraph of this section, informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.
(b) Except as provided in paragraph (c) of this section, the consent form may be either of the following:
A written consent document that embodies the elements of informed consent required by § 46.116. This form may be read to the subject or the subject's legally authorized representative, but in any event, the investigator shall give either the subject or the representative adequate opportunity to read it before it is signed; or
(2) A short form written consent document stating that the elements of informed consent required by § 46.116 have been presented orally to the subject or the subject's legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the IRB shall approve a written summary of what is to be said to the subject or the representative."

(See, 45 CFR 46.116 & 46.117.)

Archibald's "Research" Activities & Qualifications

173. Archibald's medical qualifications and research projects at RU/RUH changed in description over time. In pertinent part, the following descriptions appeared in publications about Archibald's position and research activities at RU/RUH:

174. In the 1958-1959 and 1960-1961 Rockefeller University Catalogue, Archibald was described as "Reginald MacGregor Archibald, A.B., A.M., PH.D., M.D. Medicine, Senior Physician to the Hospital…." His research project was described as "Mechanisms by which hormones exert their influence on the metabolic processes of growth and maturation of cartilage and bone, as seen in endocrine disorders."[14]

175. In 1977, Archibald's research project was described in a DHEW Bulletin of federal grant recipients as a "Study of Roentgenograms of Children with Marked Retardation in Skeletal Maturation". The research project was described as consisting of the evaluation of bones in children's x-rays[15].

[14] 1958-59, Rockefeller University Catalogue, pages 9 & 41; 1960-61 Rockefeller University Catalogue, pages 9 & 41.

[15] See, O'Connell, D., et al., Research Related to Children, U.S. DHEW Bulletin 39, March – August 1977, page 37. 349.39-C F-1, "Study of Roentgenograms of Children with Marked Retardation in Skeletal Maturation". Investigator(s): Reginald M. Archibald, M.D., Ph.D., Professor and Senior Physician, Rockefeller University Hospital, Rockefeller University, 1230 York Avenue, New York, New York 10021. Purpose: To ascertain factors that lead roentgenologists to read skeletal ages excessively low (or high) so as to improve the accuracy of reading skeletal ages, thereby increasing the accuracy of prediction of adult height, and hence the accuracy of assessment of effects of administration of anabolic agents on adult height. Subjects: Boys and girls, ages 1 to 18, attending the child growth clinic of the Rockefeller University Hospital. Methods: Roentgenograms of children who have attended this clinic over the past 28 years are being selected for special study and careful evaluation. Roentgenograms of children who have received anabolic agents and of those who have not (including untreated siblings as controls) are being studied. Findings: Metacarpals give more accurate leads to true skeletal age than do carpals. Duration: 1960-1980."

The Report on the Investigation of Dr. Reginald Archibald

176. After reports in the news media were published about Archibald's systematic and systemic sexual abuse of underage research subjects and patients in Fall 2018, RU/RUH retained a law firm, Debevoise & Plimpton, to conduct an internal investigation of Archibald's activities in the course of biomedical research projects at their institution.

177. The "Archibald Report" was disclosed to the public on May 23, 2019; it reports on the results of this internal investigation.[16]

178. The report shockingly alluded to the fact that Archibald was the subject of a grand jury investigation in 1960 involving suspicions of criminal activity that involved his work at RU/RUH.

179. The report was either inadvertently flawed or it intentionally "whitewashed" RU/RUH's glaring institutional failures. The report failed to address the fact that RU/RUH did not conduct the requisite proper and adequate oversight of Archibald's research projects, methods and activities and grossly failed to comply with federal policy and the standards, guidelines and principles governing and regulating biomedical research on human subjects that existed during 1960 – 1980.

[16] See, "Archibald Report", RU/RUH, May 23, 2019.

180. In pertinent part, the "Archibald Report" states as follows:

> "This Report summarizes evidence obtained about allegations that Dr. Reginald Archibald ("Archibald" or "Dr. Archibald"), a former professor and senior physician at The Rockefeller University ("RU") and its Hospital ("RUH" or the "Hospital"), sexually abused patients he saw at the Hospital.
> Archibald was employed at the Hospital from the
> 1940s to the early 1980s. He died in 2007."
> .....
> "Based on this and other information obtained in 2018, Debevoise concluded that Archibald engaged in sexual misconduct and abuse of each of these former patients interviewed in 2018, and likely an unidentified number of other former patients."
> .....
> "Based upon all of the information collected, it is clear that Archibald, taking advantage of his position as a trusted and respected physician and researcher, engaged in a widespread pattern of misconduct and sexually abused many children at the Hospital over the course of many years when offering patients medical care and treatment."
> .....
> "The abuse we have found occurred more than four to five decades ago and Dr. Archibald retired from RUH in 1982, over thirty-five years ago. The passage of time has, naturally, impacted the investigation to a degree. ..... Nevertheless, we have confidence in our findings."
> .....
> "While at RU and RUH, Archibald studied childhood growth and maturation, and he conducted a number of related research studies, including on the impact of methyltestosterone on growth and on the relationship between metacarpal length and growth and sexual maturity. Relatedly, Archibald examined and treated pediatric patients at RUH who had growth or other endocrine issues in his endocrine clinic, which began in 1949."
> .....
> "As early as 1966, Archibald made annual reports on his research to the Hospital Committee, a reviewing committee made up of approximately a dozen RUH department heads, its Chief Resident Physician, and its Hospital Superintendent, which approved Archibald's research to continue each year. In 1975, Archibald applied to the National Institutes of Health ("NIH") for a grant to continue his studies on skeletal age and maturation and the effect of anabolic agents on growth, but he did not receive the grant. In 1976, RU received a small private grant in support of Archibald's studies regarding skeletal growth."
> .....
> "In 1966, the Surgeon General issued a policy directive that institutions conduct independent group review of human subject investigations that

received Public Health Service grants, as Archibald's did. The establishment of the Hospital Committee, however, predated both the regulations established in 1974 by the Department of Health, Education, and Welfare ("HEW"), regarding human subjects protections policy, and the statutory requirement of the same year that institutions establish Institutional Review Boards ("IRBs"). 45 C.F.R. § 46, et seq.; National Research Act, Pub. L. No. 93-348, tit. II (1974). Shortly thereafter, RU established an IRB and Archibald began making reports to the IRB, as required by these regulations. HEW did not add specific protections for children until 1983. 45 C.F.R. § 46.401, et seq."

.....

"B. Archibald's Conduct During Patient Examinations"

"Archibald saw patients in the RUH clinic and in his office. While nurses appeared to have been present in the clinic when Archibald was seeing patients, many patients reported that Archibald examined them in his office or in the clinic examination room on his own. Some said that the door was locked during examinations. During patient visits, Dr. Archibald routinely examined patients for signs of growth and maturity, including sexual maturity. He generally obtained consent forms from each patient, signed by a parent or guardian, both for "routine examination and treatment" steps and, separately, for photographs."

.....

"Many male former patients also reported that Archibald took semen samples from them during some visits. He did so by having them masturbate while he was present or by physically manipulating them to ejaculation. Although he denied it, it is clear that Archibald frequently took semen samples and did so without sufficient medical or research justification. While such a procedure could have had legitimate medical or research purposes to assess sexual maturity or function, the evidence shows here, and we find, that Archibald's taking of semen samples constituted sexual abuse rather than a legitimate medical or research procedure. We do so for several reasons, including:

The taking of semen samples is not specifically referenced in: (1) Archibald's research protocols or research records to which RU currently has access; (2) consent forms signed by patients' parents or guardians; or (3) patients' hospital or laboratory records, aside from those of very few patients who were treated in connection with fertility issues. If the taking of semen samples was legitimate, we would expect the procedure to be documented, even when considering the less exacting recordkeeping requirements at the time.

Archibald generally took semen samples without providing privacy to the patient. Archibald himself physically manipulated some patients until they ejaculated. Several patients described Archibald watching them from his

desk as they masturbated, or being physically aroused while they masturbated or while he manipulated them. In 2004, Archibald denied taking semen samples in his study and pointed to the lack of notation in patients' hospital records as evidence that he did not take them. We do not credit Archibald's denials.

With respect to Archibald's examination practices, Debevoise finds that, even in conducting examinations that otherwise may have been reasonable in the context of his practice and research under the standards at the time, taken as a whole, much of Archibald's behavior must be seen as motivated by improper sexual interests. While we recognize that Archibald did not abuse all of his young patients, his behavior toward many constituted sexual misconduct and abuse. In particular, the taking of semen samples, which we conclude Archibald did frequently, was not justified and constituted abuse and misconduct committed against vulnerable children."

.....

"D. Timeline of Learning of Allegations of Archibald's Inappropriate Practices, Sexual Misconduct and Abuse

Based on the information Debevoise has collected, we have confirmed the following chronology of complaints received and reports made regarding allegations of Archibald's improper practices and behavior.

From time to time, however, questions and allegations were raised about Archibald's practices.....

1960–61 District Attorney's Office Investigation and Dismissal of Complaint

In late 1960, the New York County District Attorney's Office issued a grand jury subpoena for medical records for two of Archibald's patients, presumably prompted by a complaint. We understand that, in January 1961, the matter was presented to the grand jury, which did not charge Archibald with any offense, and the matter was dismissed.

..... It appears, however, that the then-President of RU was made aware of the investigation, but both he, in 1975, and other potential witnesses are deceased or without any memory of the relevant events.

Because there is no publicly available record of this proceeding, we do not know what information was put before the grand jury or why the grand jury decided not to return any charges. Because of the death and unavailability of witnesses with memory of these events, we also cannot now determine the impact of the dismissal of the matter on past RU and RUH leadership's assessment of Archibald's practices.

Complaints Reported to Former Physician-in-Chief

The physician-in-chief of the Hospital from 1960–1974 reported in 2004

> that he had received several complaints, during his tenure, from patients, family members, or staff about Archibald's examinations of patients' genitals. The physician-in-chief himself also thought Archibald's approach to examinations, in taking genital measurements, was questionable. ..... He did recall that Archibald became difficult and less communicative when asked about the complaints, but there is no evidence that Dr. Archibald ever acknowledged any inappropriate conduct to the physician-in-chief or anyone else."

181. The Archibald Report is highly flawed for several obvious reasons:

182. The report implies that the consent forms were valid and that the parents of patients gave their consent; however, it overlooks that the consent forms were forged and were not in compliance with federal policy and the standards, guidelines and principles of ethical biomedical research on human subjects existent during the period 1960 – 1980.

183. The report implies that there were no applicable governmental policies or standards, guidelines and principles for ethical biomedical research before the National Research Act in 1974; this assertion is entirely untrue.

184. The report also implies that Archibald's "annual reports" to the "hospital committee" constituted valid review of his research projects, methods and activities under the requirements of the time; however, this is obviously untrue since it does not meet the requirements for institutional review or continuing review set forth in the NIH's 1971 Guide nor does it constitute an "independent review" process as required by federal policies or the applicable standards,

guidelines and principles for ethical biomedical research.

185. In summary, the "Archibald Report" either inadvertently overlooks RU/RUH's many institutional failures due to lack of historical knowledge or it is an attempt to "whitewash" RU/RUH's institutional responsibility for failing to conduct adequate oversight of Archibald's research projects, methods and activities for many years as clearly required by federal policy and the standards, guidelines and principles governing and regulating biomedical research on human subjects that existed at the time.

The Eerie Similarity of the Reardon – St. Francis Hospital Case

186. Archibald's fraudulent research projects, methods and activities, criminal enterprise and serial pedophilic sexual offenses perpetrated against underage research subjects and patients at RU/RUH during the period 1960 – 1980 are eerily similar to the same fraudulent research project, criminal enterprise and serial pedophilic sexual offenses engaged in by another "pediatric endocrinologist" named George Reardon, M.D., at St. Francis Hospital and Medical Center in Hartford, Connecticut, during the period 1963 – 1993[17].

187. Reardon and Archibald were "contemporaries" as criminals, pedophiles and fraud perpetrators. Reardon and Archibald contemporaneously held themselves out as pediatric endocrinologists purportedly undertaking "research" involving the

[17] See, Doe v. St. Francis Hosp. & Med. Ctr., 309 Conn. 146 (2013).

"growth and development" of children; they both exploited their medical licenses, professional status, and institutional positions to commit serial pedophilic sexual offenses against underage research subjects and patients. Both conducted fraudulent medical research without any valid medical or scientific purpose as a cover for their criminal enterprises. Similar to Archibald's methods, Reardon also took numerous photographs of his underage patients while they were naked, in humiliating positions or engaged in sexual activity.

188. RU/RUH's negligent failures to conduct any degree of proper and adequate oversight of Archibald's research projects, methods and activities and ensure compliance with federal policy and the standards, guidelines and principles of ethical biomedical research on human subjects during the period 1960 – 1980 are similar to the negligent failures of St. Francis Hospital and Medical Center to conduct any degree of proper and adequate oversight of Reardon's purported "research" during the period 1963 – 1993.

189. In 2007, the owner of Reardon's former residence discovered a huge cache of thousands of child pornography photographs hidden behind basement wall panels. The police were called and an investigation ensued corroborating the accusations of numerous former research subjects and patients who had claimed that Reardon perpetrated pedophilic sexual offenses against them and took photographs of them naked, in compromising positions, and engaged in sexual activities.

190. According to the "Archibald Report", Archibald's vast photograph collection of former patients is missing from RU/RUH's archives. The revelation that Archibald's vast photography collection is missing raises the specter that they were pilfered for use, dissemination, distribution and publication involving an untoward purpose similar to Reardon's.

Predicate Sexual Offenses & Crimes – N.Y. Penal Law Violations

191. Archibald committed the following sexual offenses under the N.Y. Penal Law or the predecessor statutes pertaining to the same criminal conduct in the course of his encounters with John Doe No. 1 at RU/RUH:

192. Archibald violated N.Y. Penal Law §130.52 "Forcible touching"; N.Y. Penal Law §130.55, "Sexual abuse in the third degree"; N.Y. Penal Law §130.60, "Sexual abuse in the second degree"; N.Y. Penal Law §130.65, "Sexual abuse in the first degree"; N.Y. Penal Law §130.91, "Sexually motivated felony"; N.Y. Penal Law § 235.22, "Disseminating indecent materials to minors"; N.Y. Penal Law §263.05, "Use of a child in a sexual performance"; N.Y. Penal Law §263.10, "Promoting an obscene sexual performance by a child"; N.Y. Penal Law §263.11 "Possessing a sexual performance by a child"; and N.Y. Penal Law §263.15, "Promoting an sexual performance by a child".

193. Moreover, Archibald and other RU/RUH employees and agents violated statutes under the N.Y. Penal Law pertaining to forged instruments and falsification of

business records.

Causes of Action

First Count – Negligence

194. Plaintiff John Doe No. 1 (a/k/a "100558") repeats, reiterates and re-alleges each and every allegation as previously set forth in paragraphs 1 - 193 of this Verified Complaint as if those allegations were fully and completely repeated, reiterated and re-alleged in the entirety in this paragraph, cause of action, and count.

195. RU/RUH and its employees and agents owed the following duties of reasonable care and special duties of care to underage research subjects and patients in its care and custody, including John Doe No. 1, as a biomedical research institution and hospital engaged in research on underage human subjects:

196. RU/RUH owed a duty to properly and adequately review, supervise, monitor, investigate, audit, evaluate, assess and inquire into the validity of the medical or scientific purpose of Archibald's research projects, methods and activities pursuant to federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

197. RU/RUH owed a duty to properly and adequately review, supervise, monitor, investigate, audit, evaluate, assess, control, direct and guide Archibald's research projects, methods and activities pursuant to federal policy and the standards,

guidelines and principles governing and regulating ethical biomedical research on human subjects.

198. RU/RUH owed a duty to properly and adequately conduct oversight of Archibald's research projects, methods and activities pursuant to federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

199. RU/RUH owed a special duty of care to conduct biomedical research and medical treatment in accordance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects to protect them from injury and harm.

200. RU/RUH owed a special duty of care to ensure that Archibald's research projects served a valid medical or scientific purpose, were medically and scientifically ethical, were in compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects, and did not cause the research subjects and patients injury and harm.

201. RU/RUH owed a duty to properly and adequately secure and protect Archibald's collection of thousands of photographs and/or films of underage patients from unauthorized removal, theft, pilferage, distribution, dissemination and/or publication for untoward purposes.

202. RU/RUH owed a special duty of care that arose out of its own conduct as a biomedical research institution to refrain from practices that created or increased the foreseeable risk of harm to research subjects and patients through the conduct of a researcher whose projects, methods and activities were not subject to proper and adequate oversight in accordance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

203. RU/RUH owed a special duty of care that arose out of its own conduct as a biomedical research institution to refrain from practices that created or increased the foreseeable risk of harm to research subjects and patients through the conduct of a researcher whose projects, methods and activities were the subject of a grand jury investigation and complaints to hospital administration.

204. RU/RUH and its employees and agents violated, breached, departed and deviated from, and did not adhere to their duties of reasonable care and special duties of care owed to underage research subjects and patients in its care and custody, including John Doe No. 1, in the following manner:

205. RU/RUH never properly and adequately reviewed, supervised, monitored, investigated, audited, evaluated, assessed, and/or inquired into the validity of the medical or scientific purpose of Archibald's research projects, methods and

activities in accordance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

206. RU/RUH never properly and adequately reviewed, supervised, monitored, investigated, audited, evaluated, assessed, controlled, directed and/or guided Archibald's research projects, methods and activities to ensure compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

207. RU/RUH never properly and adequately conducted the requisite oversight of Archibald's research projects, methods and activities to ensure compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

208. RU/RUH never adhered to its special duty of care to underage research subjects and patients in its care and custody to protect them from Archibald's unethical biomedical research and medical treatment that departed and deviated from federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

209. RU/RUH never adhered to its special duty of care to ensure that Archibald's research projects served a valid medical or scientific purpose, were medically and

scientifically ethical, were in compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects, and did not cause the research subjects and patients injury and harm.

210. RU/RUH never adhered to its duty of care to properly and adequately secure and protect Archibald's compilation and collection of thousands of the photographs and/or films of underage patients from unauthorized removal, theft, pilferage, distribution, dissemination and/or publication for untoward purposes.

211. RU/RUH never adhered to its special duty of care to protect underage research subjects and patients in its care and custody from the foreseeable risk of harm created or caused by the conduct of a researcher whose projects, methods and activities were not subject to proper and adequate oversight as required by federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

212. RU/RUH never adhered to its special duty of care to protect underage research subjects and patients in its care and custody from the foreseeable risk of harm created or caused by the conduct of a researcher whose projects, methods and activities were the subject of a grand jury investigation and complaints to hospital administration.

213. RU/RUH negligently failed to properly and adequately review, supervise, monitor, investigate, audit, evaluate, assess, and/or inquire into the validity of the medical or scientific purpose of Archibald's research projects, methods and activities in accordance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

214. RU/RUH negligently failed to properly and adequately review, supervise, monitor, investigate, audit, evaluate, assess, control, direct and/or guide Archibald's research projects, methods and activities to ensure compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

215. RU/RUH negligently failed to properly and adequately conduct the requisite oversight of Archibald's research projects, methods and activities or negligently failed to adequately conduct such oversight to ensure compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

216. RU/RUH negligently failed to adhere to its special duty of care to underage research subjects and patients in its care and custody to protect them from Archibald's unethical biomedical research and medical treatment that departed and deviated from federal policy and the standards, guidelines and principles

governing and regulating ethical biomedical research on human subjects that were existent at the time and subjected them to injury and harm.

217. RU/RUH negligently failed to adhere to its special duty of care to ensure that Archibald's research projects served a valid medical or scientific purpose, were medically and scientifically ethical, were in compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects and did not cause the research subjects and patients injury and harm.

218. RU/RUH negligently failed to properly and adequately secure and protect Archibald's collection of photographs and/or films of underage patients from unauthorized removal, theft, pilferage, distribution, dissemination and/or publication for untoward purposes.

219. RU/RUH was negligent because it failed to protect underage research subjects and patients in its care and custody from the foreseeable risk of harm presented by the unethical or criminal conduct of Archibald whose projects, methods and activities were not subject to proper and adequate oversight as required by federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects.

220. RU/RUH was negligent because it failed to protect underage research subjects

and patients in its care and custody from the foreseeable risk of harm presented by the unethical or criminal conduct of Archibald whose projects, methods and activities were the subject of a grand jury investigation and complaints to hospital administration.

221. RU/RUH was negligent because it failed to comply with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects, including the Nuremberg Code of 1947, Declaration of Helsinki of 1964, AMA Ethical Guidelines for Clinical Investigation of 1966, Institutional Guide to USDHEW Policy on Protection of Human Subjects of 1971 and National Research Act of 1974 and its regulations in conducting oversight of Archibald's research projects, methods and activities.

222. RU/RUH was negligent because it failed to ensure that Archibald was in compliance with federal policy and the standards, guidelines and principles governing and regulating ethical biomedical research on human subjects, including the Nuremberg Code of 1947, Declaration of Helsinki of 1964, AMA Ethical Guidelines for Clinical Investigation of 1966, Institutional Guide to USDHEW Policy on Protection of Human Subjects of 1971 and National Research Act of 1974 and its regulations.

223. RU/RUH's negligence caused, created and/or increased the foreseeable nature of Archibald's unethical and criminal conduct and placed it within the scope of the

risks presented by the circumstances under which underage research subjects and patients, including John Doe No. 1, were in its care and custody.

224. Because RU/RUH and its employees and agents negligently violated, breached, departed and deviated from, and did not adhere to their duties of reasonable care and special duties of care owed to underage research subjects and patients in its care and custody, including John Doe No. 1, it allowed and permitted Archibald to commit the foregoing enumerated crimes under the N.Y. Penal Law, including pedophilic sexual offenses and sexual abuse, against John Doe No. 1.

225. Because RU/RUH and its employees and agents negligently violated, breached, departed and deviated from, and did not adhere to their duties of reasonable care and special duties of care owed to underage research subjects and patients in its care and custody, including John Doe No. 1, it allowed and permitted Archibald and other employees and agents to injure, harm and damage John Doe No. 1.

226. Because RU/RUH and its employees and agents negligently violated, breached, departed and deviated from, and did not adhere to their foregoing duties of reasonable care and special duties of care owed to underage research subjects and patients in its care and custody, including John Doe No. 1, it failed to prevent and stop Archibald and other employees and agents from injuring, harming and damaging John Doe No. 1.

227. RU/RUH's foregoing negligence caused, contributed to, and were substantial factors resulting in Archibald's commission of the foregoing enumerated crimes under the N.Y. Penal Law, including pedophilic sexual offenses and sexual abuse, perpetrated against John Doe No. 1.

228. RU/RUH's foregoing negligence caused, contributed to, and were substantial factors resulting in the injuries, harm, losses and damages sustained by John Doe No. 1.

229. RU/RUH is vicariously liable for the foregoing unethical and criminal conduct of Archibald and other employees and agents who were part of the "research" and "treatment" activities involving John Doe No. 1.

230. RU/RUH's negligence was reckless and exhibited systematic and systemic gross indifference to the proper and adequate care and custody of John Doe No. 1.

231. RU/RUH's negligence was reckless and constituted systematic and systemic gross patient neglect of John Doe No. 1.

232. The injuries, harm, losses and damages sustained by John Doe No. 1 were caused solely and wholly by virtue of the foregoing negligence of RU/RUH and its employees and agents and were in no way caused and/or contributed to by the plaintiff.

233. By reason of the foregoing, plaintiff by John Doe No. 1 is entitled to monetary damages, including punitive damages, on the first count for his non-economic and economic injuries that exceed the jurisdictional limits of all lower courts.

234. By reason of the foregoing, plaintiff by John Doe No. 1 demands judgment in the amount of $25,000,000.00 on the first count and cause of action for monetary damages inclusive of punitive damages.

Second Count – Fraud

235. Plaintiff John Doe No. 1 (a/k/a "100558") repeats, reiterates and re-alleges each and every allegation as previously set forth in paragraphs 1 - 233 of this Verified Complaint as if those allegations were fully and completely repeated, reiterated and re-alleged in the entirety in this paragraph, cause of action, and count

236. Archibald, with the assistance of Co-Conspirator No. 1, Co-Conspirator No. 2, and other currently unknown co-conspirator RU/RUH employees, knowingly, willfully and intentionally engaged in the foregoing pervasive fraud scheme, fraudulent research project and criminal enterprise (comprising pedophilia, sexual offenses, and sexual abuse) that victimized and preyed upon thousands of underage research subjects and patients, including John Doe No. 1, and their parents during the period 1960 – 1980.

237. Archibald, with the assistance of Co-Conspirator No. 1, Co-Conspirator No. 2, and other currently unknown co-conspirator RU/RUH employees, knowingly, willfully and intentionally deceived, misled, misinformed, misguided and lied to underage research subjects and patients, including John Doe No. 1, and their parents about the: (1) true and actual criminal purposes of Archibald's research project, methods and activities, (2) lack of validity of the medical and scientific purpose of the research project, methods and activities, (3) forgery of consent forms, (4) insufficiency of the consent forms, (5) true nature, purpose and meaning of the consent forms for "treatment and diagnostic procedures", (6) true nature, purpose and meaning of the consent forms for "photographs", and (7) true nature, extent, purposes and uses of the treatment, examinations, diagnostic procedures, medications, and photographs referenced in the consent forms.

238. Archibald, with the assistance of Co-Conspirator No. 1, Co-Conspirator No. 2, and other currently unknown co-conspirator RU/RUH employees fraudulently concealed from underage research subjects and patients, including John Doe No. 1, and their parents the fact of the: (1) true and actual criminal purposes of Archibald's research project, methods and activities, (2) lack of validity of the medical and scientific purpose of the research project, methods and activities, (3) forgery of consent forms, (4) insufficiency of the consent forms, (5) true nature, purpose and meaning of the consent forms for "treatment and diagnostic procedures", (6) true nature, purpose and meaning of the consent forms for "photographs", and (7) true nature, extent, purposes and uses of the treatment,

examinations, diagnostic procedures, medications, and photographs referenced in the consent forms.

239. The parents and guardians of the underage research subjects and patients, including John Doe No. 1's mother, justifiably relied on Archibald's status as a licensed medical doctor and researcher at RU/RUH, and justifiably relied on RU/RUH's academic reputation to be falsely reassured of the medical and scientific integrity and legitimacy of the research project, methods and activities.

240. Archibald and the other co-conspirator RU/RUH employees used the foregoing deceptions, dishonesty, falsifications, lies, obfuscations and concealments to defraud, injure and harm the underage research subjects and patients, including John Doe No. 1, and their parents so as to victimize and prey upon John Doe No. 1 and other underage research subjects and patients for pedophilic sexual gratification purposes and for the purposes of facilitating other criminal acts.

241. Archibald and the other co-conspirator RU/RUH employees engaged in this pervasive fraud scheme and fraudulent research project that defrauded, injured, harmed and damaged John Doe No. 1 and other underage research subjects and patients in the regular course of their employment duties at RU/RUH.

242. The specific dates of the conduct serving as the basis of Archibald's pervasive fraud scheme are within the exclusive knowledge of RU/RUH and are unknown

to John Doe No. 1 except for the specific dates of the plaintiff's encounters with Archibald at RU/RUH in 1972 and 1975.

243. RU/RUH enabled, authorized, approved, ratified, permitted, allowed and supported Archibald's fraudulent research projects, methods and activities that defrauded, injured and harmed John Doe No. 1.

244. RU/RUH's foregoing fraud caused, created and/or increased the foreseeable nature of Archibald' fraudulent conduct and placed it within the scope of the risks presented by the circumstances in which underage research subjects and patients, including John Doe No. 1, were in its care and custody.

245. As a result of the fraudulent conduct of Archibald and other co-conspirator RU/RUH employees and agents, John Doe No. 1 was defrauded, injured, harmed and damaged.

246. The foregoing fraud caused, contributed to and were substantial factors resulting in the fraud, injuries, harm, losses and damage sustained by John Doe No. 1.

247. The injuries, harm, losses and damages sustained by John Doe No. 1 were caused solely and wholly by virtue of the foregoing fraud by RU/RUH and its employees and agents and were in no way caused and/or contributed to by the plaintiff.

248. RU/RUH is vicariously liable for the foregoing fraudulent conduct of Archibald and other employees and agents who were part of the "research" and "treatment" activities involving John Doe No. 1.

249. By reason of the foregoing, plaintiff by John Doe No. 1 is entitled to monetary damages, including punitive damages, on the second count for his non-economic and economic injuries that exceed the jurisdictional limits of all lower courts.

250. By reason of the foregoing, plaintiff by John Doe No. 1 demands judgment in the amount of $25,000,000.00 on the second count and cause of action for monetary damages inclusive of punitive damages.

WHEREFORE, plaintiff John Doe No. 1 demands judgment awarding monetary damages, including punitive damages, on the first count and cause of action (Negligence) in the Verified Complaint in the amount of $25,000,000.00 compensatory damages and punitive damages and on the second count and cause of action (Fraud) in the Verified Complaint in the amount of $25,000,000.00 compensatory damages and punitive damages, amounts that exceed the monetary jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action and the interest allowed by law.

Dated: New York, NY
September 16, 2019

Yours, etc.,

/S/ J. Lanni

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TO:

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VERIFICATION

[redacted][18], otherwise known as plaintiff John Doe No. #1 (a/k/a "100558") for the purposes of this action, being duly sworn, deposes and states the following to be true under the penalties of perjury:

I am the plaintiff in the above captioned action.

I have read the annexed Summons and Verified Complaint and I know the contents of these documents.

The contents of these documents are true to my knowledge except for those matters that are stated to be alleged upon information and belief.

As to those matters alleged upon information and belief, they are believed by me to be true.

The matters alleged upon information and belief are based upon the facts, records, materials, investigation and information obtained by my attorneys and contained in my attorneys' files on this matter.

The reason I make the foregoing affirmation instead of the plaintiff is because plaintiff resides outside of the county where maintains offices.

Dated: New York, New York

[redacted]

Notary Public

[18] "John Doe No. #1 (a/k/a '100558')" is an alias and pseudonym for the true identity of the plaintiff in this action; it is used to protect the privacy and identity of the plaintiff who is a sexual offense victim pursuant to N.Y. Civil Rights Law § 50-b and the true name and signature of the plaintiff has been redacted from this Verification under that statute for the same reasons. The original unredacted version of this verification will be produced to the court upon request.